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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/738,436	12/17/2003	William C. Batten	2913-030	8328
7590	01/10/2006		EXAMINER	
Howard A. MacCord, Jr. MacCord Mason PLLC P.O. Box 2974 Greensboro, NC 27402			LE, HUYEN D	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/738,436

Applicant(s)

BATTEN ET AL.

Examiner

Huyen Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 17-27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-16 is/are allowed.
- 6) ☒ Claim(s) 1-5, 8 and 12 is/are rejected.
- 7) ☒ Claim(s) 6, 7 and 9-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/29/04, 7/19/04 & 8/18/05
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of group 1, claims 1-16, in the reply filed on October 20, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 17-27 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected groups II and III.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (425,553) in view of Sage-Passant (6,601,248).

The Smith reference discloses an apparatus comprising a manifold pipe having a length and having a plurality of discrete openings along its length, each of the openings facing the same direction transverse to the length, the openings align with sink drain tailpieces a, and an outlet at one end of the manifold pipe adapted to connect to a downstream flow direction of sink effluent.

Although the Smith reference does not disclose a support bracket for the manifold pipe to suspend the manifold pipe substantially horizontally under the sink,

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attention is directed to the Sage-Passant reference which teaches supports brackets 56,58 for supporting a drain pipe 18 under a sink.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide support brackets on the Smith apparatus in view of the teaching of the Sage-Passant reference for securely supporting the drain pipe under the sink.

Regarding claim 2, the manifold pipe is made up of a plurality of sections including straight pipe sections D² and Tees B, with openings being openings in the Tees B.

Regarding claim 3, the manifold pipe has a second end that is closed by a plug.

Regarding claim 4, the support bracket would include two supports 58 for axially spaced locations of the manifold pipe.

Regarding claim 8, the apparatus comprises a drain flow control D adapted to be install on a sink drain tailpiece to collimate the flow from the tailpiece to direct the flow to an opening in the manifold pipe aligned below the tailpiece.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (425,553) as applied to claim 1 above, and further in view of Batten (5,934,309).

Although Smith does not disclose that the apparatus comprising an oil/grease separator, attention is directed to the Batten reference which teaches an oil/grease separator 30.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an oil/grease separator in the Smith apparatus in view of

the teaching of the Batten reference for removing oil and grease from the drained water before it goes down to the sewage line.

6. Claims 1-5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (425,553) in view of Fitzgerald (3,236,482).

The Smith reference discloses an apparatus comprising a manifold pipe having a length and having a plurality of discrete openings along its length, each of the openings facing the same direction transverse to the length, the openings align with sink drain tailpieces a, and an outlet at one end of the manifold pipe adapted to connect to a downstream flow direction of sink effluent.

Although the Smith reference does not disclose a support bracket for the manifold pipe to suspend the manifold pipe substantially horizontally under the sink, attention is directed to the Fitzgerald reference which teaches a support bracket 10 in form of a hanger strap for supporting a pipe in a horizontal position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ hanger strap brackets on the Smith apparatus in view of the teaching of the Fitzgerald reference for providing more secure and stable support to the drain pipe under the sink.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (425,553) as applied to claim 1 above, and further in view of Batten (5,934,309).

Although Smith does not disclose that the apparatus comprising an oil/grease separator, attention is directed to the Batten reference which teaches an oil/grease separator 30.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an oil/grease separator in the Smith apparatus in view of the teaching of the Batten reference for removing oil and grease from the drained water before it goes down to the sewage line.

Allowable Subject Matter

8. Claims 6, 7, 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Claim 13-16 is allowed.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Babington, Evans and Sorrells teach a drain device comprising manifold pipe with a plurality of openings.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Huyen Le
Examiner
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January 6, 2006